In the Drawings:

Please see attached Figure 1 with element 40 indicated in red.

REMARKS

Initially, Applicants enclose a Revocation of Power of Attorney/New Power of Attorney for the above referenced patent application. Applicants respectfully request that the attorney docket number for this application be changed from "3257-29A" to --930039-2029A--.

Reconsideration of the application is respectfully requested. Initially, the numeral 40 has been added to Figure 1. The numeral is also shown in Figure 4.

On the merits, the Examiner has rejected claims 18-46 as anticipated or obvious over U.S. Patent No. 5,360,656 to Rexfelt. As to the rejection based upon anticipation, it is respectfully pointed out that in order for a Section 102 rejection to stand, the prior art reference must contain all of the elements of the claimed invention. *See Lewmar Marine Inc. v. Barient Inc.,* 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

Against this background, the document relied upon by the Office Action does not disclose Applicants' invention. More specifically, the present invention provides for spiral wound strips of nonwoven mesh fabric wherein each turn of the nonwoven mesh is in a non-overlapping abutting relationship with the next. The '656 patent simply does not recite the use of strips of nonwoven mesh to form a fabric.

Turning now to the rejection based upon obviousness, it is respectfully asserted that it is well-settled that there must be some prior art teaching which would have provided the necessary incentive or motivation for modifying the reference teachings. *See In re Laskowski*, 12 U.S.P.Q. 2d 1397, 1399 (Fed. Cir. 1989); *see also In re Obukowitz*, 27 U.S.P.Q. 2d 1063 (B.P.A.I. 1993).

Further, "obvious to try" is not the standard under 35 U.S.C. §103. *See In re Fine,* 5 U.S.P.Q. 2d 1596, 1599 (Fed. Cir. 1988). And as stated by the Court in *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783-1784 (Fed. Cir. 1992): "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification." Also, the Examiner is respectfully reminded that for the Section 103 rejection to be proper, both the suggestion of the claimed invention and the expectation of success must be founded in the prior art, and not Applicant's disclosure. *See In re Dow*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988).

Applying the law to the instant facts, the '656 patent does provide for spirally forming a fabric. However, the strips of material making up the fabric are said to be preferably flat-woven strips. Nowhere in the '656 patent is there any teaching that would lead a skilled artisan to utilize a nonwoven mesh to spirally form a fabric. Again, the Federal Circuit in *In re Fine* was very clear that "obvious to try" is not the standard upon which an obviousness rejection should be based. And as "obvious to try" would be the only standard that would lend the instant rejection any credibility, the rejection must fail as a matter of law.

Consequently, reconsideration and withdrawal of the Section 102 and 103 rejections are respectfully requested.

In addition, the application is a divisional of U.S. Patent Application Serial No. 09/290,899 now U.S. Patent No. 6,240,608. That patent issued on the methodology of forming a fabric out of spirally wound, non-overlapping, nonwoven mesh strips. This was found to be patentable over the '656 patent. These are exactly the features claimed in claims 18-46. So too these claims should be allowable over this reference.

Accordingly, in view of the above, it is respectfully submitted that claims 18-46 are patentably distinct from the art cited and a notice of allowance is earnestly solicited.

The Commissioner is authorized to charge any additional fees that may be required to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: for Ronald R. Santucci
Reg. No. 28,988
(212) 588-0800

Dennis M. Smid
Reg. No. 34,930
(212) 588-0800